

IC ON THE RECORD



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Review Group on Global Signals Intelligence Collection and Communications Technologies Seeks Public Comment

September 4, 2013

On August 12, 2013 President Obama [directed the establishment](#) of the Review Group on Intelligence and Communications Technologies. While the Review Group is administratively housed at the Office of the Director of National Intelligence (DNI), it is conducting an independent review and will report to the President through the DNI.

President Obama [met with the members of the Review Group](#) on August 27, Richard Clarke, Michael Morell, Geoffrey Stone, Cass Sunstein and Peter Swire. The President thanked the Members of the Group for taking on this important task and looks forward to hearing from them as their work proceeds.

Seeking Public Comment

The Review Group is seeking public comments on all matters that the President has directed it to examine, namely, how in light of advancements in communications technologies, the United States can employ its technical collection capabilities in a manner that optimally protects our national security and advances our foreign policy while respecting our commitment to privacy and civil liberties, recognizing our need to maintain the public trust, and reducing the risk of unauthorized disclosure. Comments can be provided via reviewgroup@dni.gov. The deadline for public submissions is October 4, 2013.

The comments you provide to the Review Group will be used to inform the group's deliberations.

Review Group Privacy and Comment Policy

Your comments will become part of the official record of the Review Group's activity and will be retained consistent with applicable policy and legal requirements. At this time, the Review Group is receiving comments only, and will not be responding to submitters. However, the Review Group may determine it appropriate to the public debate to post your comments publicly. Accordingly, any personal information you provide in the comments, or in an address or signature block, may be disclosed. Providing a comment is voluntary, and implies your consent to publication of the comment and any personal information contained in it.

Should the Review Group post comments, it will review all comments prior to posting and will not post comments that contain vulgar or abusive language; personal attacks of any kind; offensive terms that target specific groups; spam or comments that are clearly "off topic"; commercial promotions; information that promotes or opposes any political party, person campaigning for elected office, or any ballot proposition; reports of criminal or suspicious activity - if you have information for law enforcement, please contact your local police agency; unsolicited proposals, or other business ideas or inquiries; solicitations for contracting or commercial business; or any claims, demands, informal or formal complaints, or any other form of legal and/or administrative notices or processes.

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NSA Press Statement - Correcting The Record On "Possible Insider Threats"

August 30, 2013

Recent reporting stated that "NSA planned to investigate at least 4,000 possible insider threats in 2013, cases in which the agency suspected sensitive information may have been compromised by one of its own." That's not accurate. Correctly stated, in FY 2013, NSA planned to initiate 4,000 re-investigations on civilian employees to reduce the "potential" of an insider compromise of sensitive information and missions.

Periodic re-investigations are conducted as one due-diligence component of our multifaceted insider threat program. The timing and scope of periodic re-investigations are mandated in Intelligence Community Directive 704 (ICD 704), Personnel Security Investigative Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information.

Again: Periodic re-investigations are conducted as one due-diligence component of NSAs multifaceted insider threat program.

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DNI Clapper Directs Annual Release of Information Related to Orders Issued Under National Security Authorities

August 29, 2013

In June, President Obama directed the Intelligence Community (IC) to declassify and make public as much information as possible about certain sensitive U.S. Government surveillance programs while being mindful of the need to protect sensitive classified intelligence and national security.

Consistent with this directive and in the interest of increased transparency, the DNI has determined, with the concurrence of the IC, that going forward the IC will publicly release, on an annual basis, aggregate information concerning compulsory legal process under certain national security authorities.

Specifically, for each of the following categories of national security authorities, the IC will release the total number of orders issued during the prior twelve-month period, and the number of targets affected by these orders:

- FISA orders based on probable cause (Titles I and III of FISA, and sections 703 and 704).
- Section 702 of FISA

- FISA Business Records (Title V of FISA).
- FISA Pen Register/Trap and Trace (Title IV of FISA)
- National Security Letters issued pursuant to 12 U.S.C. § 3414(a)(5), 15 U.S.C. §§ 1681u(a) and (b), 15 U.S.C. § 1681v, and 18 U.S.C. § 2709.

Our ability to discuss these activities is limited by our need to protect intelligence sources and methods.

FISA and national security letters are an important part of our effort to keep the nation and its citizens safe, and disclosing more detailed information about how they are used and to whom they are directed can obviously help our enemies avoid detection.

These reports, like other unclassified information related to foreign intelligence surveillance activities, will be available on our Community website established at the direction of the President. The new www.icontherecord.tumblr.com is designed to provide immediate, ongoing and direct access to factual information related to the lawful foreign surveillance activities carried out by the U.S. Intelligence Community.

James R. Clapper
Director of National Intelligence

[Updated: 8/31/2013 to remove "to Telecom Providers" from title.]

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PRIVACY & CIVIL LIBERTIES OVERSIGHT BOARD

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August 22, 2013

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Civil Liberties Protection Officer's Statement Regarding Privacy and Civil Liberties Oversight Board Guidelines Letter

August 26, 2013

The Director of National Intelligence received [a letter dated August 22, 2013](#) from the Privacy and Civil Liberties Oversight Board (often shortened to "PCLOB").

The letter indicates that the PCLOB would like to be briefed on the process for reviewing and updating intelligence agency guidelines under Executive Order (EO) 12333. We welcome the PCLOB's interest, and will, in coordination with the Department of Justice, continue to provide the PCLOB with information regarding these matters.

Executive Order 12333

EO 12333 sets out how the Intelligence Community (IC) is to conduct intelligence activities. The Order embodies principles that are designed to enable IC elements to carry out their missions in a manner that protects privacy and civil liberties. It provides that elements of the Intelligence Community are to collect, retain and disseminate information about United States persons pursuant to guidelines approved by the head of the IC element and the Attorney General, in consultation with the DNI.

Please note that EO 12333 guidelines are separate from the specific procedures required by the Foreign Intelligence Surveillance Act (FISA). FISA procedures apply to information that is collected, retained, and disseminated under FISA, and must first be reviewed and approved by the Foreign Intelligence Surveillance Court. The EO 12333 guidelines referred to herein do not in any way supersede or modify those procedures.

Updated Guidance

The IC has been working closely with the Department of Justice to review and update agency guidelines under EO 12333, as appropriate. It is important to review these guidelines in light of today's environment, and to carefully consider any proposed updates to ensure they remain true to the Executive Order's purpose and requirements, so that intelligence agencies pursue their authorized missions as called for in the Order: "in a vigorous, innovative, and responsible manner that is consistent with the Constitution and applicable law and respect for the principles upon which the United States was founded."

As we do so, we have remained mindful that protective principles, if stated in a technology-neutral manner, can continue to apply as technologies change. Indeed, EO 12333 was originally finalized in 1981. It was revised in 2008 to align the Order with post-9/11 intelligence reform changes and to promote intelligence integration, while preserving and enhancing the Order's protections for privacy and civil liberties.

Accounting for New Technology

The 2008 revision of EO 12333 left largely unchanged the part of the Order that specifies privacy and civil liberties protections (for more information on EO 12333, visit [CLPO's pages on dni.gov](#)). Those protections are not tied to specific technologies, and agency guidelines generally implement them in a technology-neutral manner that can continue to apply even as technologies change.

Nonetheless, as the PCLOB letter states, there have been "dramatic changes in information use and technology" in the past decades. We recognize the importance of reviewing and, as appropriate, updating the guidelines in light of these changes.

We look forward to continuing our engagement with the PCLOB to address the matters raised in the letter.

Of general interest, I discuss the issue of how to consider "old rules" in light of "new tools" in the following article I wrote, published in the Texas Law Review in June 2010: [Choosing Both: Making Technology Choices at the Intersections of Privacy and Security](#).

[Alexander W. Joel](#)

Civil Liberties Protection Officer

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Press Briefing, August 16, 2013: Mr. John DeLong, NSA Director of Compliance

Moderator: Ms. Judith Emmel, NSA Director, Strategic Communications

Posted August 22, 2013

"Good afternoon this is John DeLong, director of compliance at NSA. Been a busy day, I do want to cover a few things first. I think the most important thing for everyone to understand is that no one at NSA thinks a mistake is okay. That's really got to get out there.

We have an internal oversight and compliance program for the purpose of — of multiple purposes. Preventing mistakes and then when mistakes do occur, to detect them and correct them at the earliest point possible."

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Joint Statement: NSA and Office of the Director of National Intelligence

August 21, 2013

Press reports based on an article published in today's Wall Street Journal mischaracterize aspects of NSA's data collection activities conducted under Section 702 of the Foreign Intelligence Surveillance Act. The NSA does not sift through and have unfettered access to 75% of the United States' online communications.

The following are the facts:

—Media reports based upon the recent Wall Street Journal (WSJ) article regarding NSA's foreign intelligence activities provide an inaccurate and misleading picture of NSA's collection programs, but especially with respect to NSA's use of Section 702 of the Foreign Intelligence Surveillance Act (FISA).

—The reports leave readers with the impression that NSA is sifting through as much as 75% of the United States' online communications, which is simply not true.

—In its foreign intelligence mission, and using all its authorities, NSA "touches" about 1.6%, and analysts only look at 0.00004%, of the world's internet traffic.

—The assistance from the providers, which is compelled by the law, is the same activity that has been previously revealed as part of Section 702 collection and PRISM.

—FISA is designed to allow the U.S. Government to acquire foreign intelligence while protecting the civil liberties and privacy of Americans.

- Section 702 specifically prohibits the intentional acquisition of any communications when all parties are known to be inside the U.S.
- The law specifically prohibits targeting a U.S. citizen without an individual court order based on a showing of probable cause.
- The law only permits NSA to obtain information pursuant to Section 702 in accordance with orders and procedures approved by the Foreign Intelligence Surveillance Court.

—When conducting 702 FISA surveillance, the only information NSA obtains results from the use of specific identifiers (for example email addresses and telephone numbers) used by non-U.S. persons overseas who are believed to possess or receive foreign intelligence information.

- Foreign terrorists sometimes communicate with persons in the U.S. or Americans overseas. In targeting a terrorist overseas who is not a U.S. person, NSA may get both sides of a communication. If that communication involves a U.S. person, NSA must follow Attorney General and FISA Court approved "minimization procedures" to ensure the Agency protects the privacy of U.S. persons.

—The collection under FISA section 702 is the most significant tool in the NSA collection arsenal for the detection, identification, and disruption of terrorist threats to the U.S. and around the world.

Via [NSA.gov](#)

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Additional Declassified Documents Relating to Section 702 of FISA

August 21, 2013

[December 8, 2011 — Lisa Monaco, John C. \("Chris"\) Inglis, Robert Litt - Statement for the Record before the House Permanent Select Committee on Intelligence](#)

[February 9, 2012 — Lisa Monaco, John C. \("Chris"\) Inglis, Robert Litt - Statement for the Record before the House Permanent Select Committee on Intelligence](#)

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Additional Declassified Documents Relating to Section 702 of FISA

August 21, 2013

[May 4, 2012 — Letters to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence Leadership regarding Section 702 Congressional White Paper entitled The Intelligence Community's Collection Programs Under Title VII of the Foreign Intelligence Surveillance Act](#)

[October 31, 2011 — Minimization Procedures Used by the National Security Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702, as amended](#)

[August 2013 — Semi-Annual Assessment of Compliance with the Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Submitted by the Attorney General and the Director of National Intelligence](#)

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DNI Declassifies Intelligence Community Documents Regarding Collection Under Section 702 of the Foreign Intelligence Surveillance Act (FISA)

Wednesday, August 21, 2013

In June, President Obama requested that Director of National Intelligence James R. Clapper declassify and make public as much information as possible about certain sensitive NSA programs while being mindful of the need to protect sensitive classified intelligence and national security.

Consistent with this directive and in the interest of increased transparency, DNI Clapper has today authorized the declassification and public release of a number of documents pertaining to the Intelligence Community's collection under Section 702 of the Foreign Intelligence Surveillance Act (FISA). DNI Clapper has determined that the release of these documents is in the public interest.

These documents and other unclassified information related to foreign intelligence surveillance activities are available on a new Intelligence Community website established at the direction of the President. The new www.icontherecord.tumblr.com is designed to provide immediate, ongoing and direct access to factual information related to the lawful foreign surveillance activities carried out by the U.S. Intelligence Community.

The Administration is undertaking a careful and thorough review of whether and to what extent additional information or documents pertaining to this program may be declassified, consistent with the protection of national security. *IC on the Record* provides a single online location to access new information as it is made available from across the Intelligence Community.

Shawn Turner
Director of Public Affairs
Office of the Director of National Intelligence

Documents being released today include:

[DNI James Clapper's Cover Letter Announcing the Document Release](#)

October 3, 2011 — Foreign Intelligence Surveillance Court Memorandum Opinion and Order (J. Bates)

[Part 1](#) | [Part 2](#) (Updated 11/19/13) | [Part 3](#) | [Part 4](#) | [Part 5](#) | [Part 6](#) | [Part 7](#) | [Part 8](#) | [Part 9](#)

November 30, 2011 — Foreign Intelligence Surveillance Court Memorandum Opinion and Order (J. Bates)

[Part 1](#) | [Part 2](#)

September 25, 2012 — Foreign Intelligence Surveillance Court Memorandum Opinion and Order (J. Bates)

December 8, 2011 — Lisa Monaco, John C. ("Chris") Inglis, Robert Litt - Statement for the Record before the House Permanent Select Committee on Intelligence

February 9, 2012 — Lisa Monaco, John C. ("Chris") Inglis, Robert Litt - Statement for the Record before the House Permanent Select Committee on Intelligence

May 4, 2012 — Letters to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence Leadership regarding Section 702 Congressional White Paper entitled The Intelligence Community's Collection Programs Under Title VII of the Foreign Intelligence Surveillance Act

October 31, 2011 — Minimization Procedures Used by the National Security Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702, as amended

August 2013 — Semi-Annual Assessment of Compliance with the Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Submitted by the Attorney General and the Director of National Intelligence

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Welcome to IC ON THE RECORD

In Congress and across the nation, Americans are engaged in a discussion about the value and appropriateness of the foreign surveillance authorities granted to the Intelligence Community. The discussion will ultimately lead us, as a nation, to make decisions about the future of some foreign surveillance-related laws and practices.

As we make those decisions, it is imperative that we do so with a full understanding of what the existing foreign surveillance authorities allow, what the oversight mechanisms are, and most important of all how they contribute to our safety and security.

[Announced by President Obama](#) on August 9, 2013 and launched today, August 21st, the goal of *IC ON THE RECORD* is to provide the public with direct access to factual information related to the lawful foreign surveillance activities carried out by the Intelligence Community.

In addition to comprehensive explanations of the authorities under which the Intelligence Community conducts foreign surveillance, the site will address methods of collection, use of collected data, and oversight and compliance.

The highest priority of the Intelligence Community is to work within the constraints of law to collect, analyze and understand information related to potential threats to our national security.

As we work to deliver the most insightful intelligence possible, we must and will, without compromise, uphold the rule of law and respect the civil liberties and privacy of every American.

James Clapper

Director of National Intelligence

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About

Created at the direction of the President of the United States, [IC ON THE RECORD](#) provides immediate, ongoing and direct access to factual information related to the lawful foreign surveillance activities carried out by the U.S. Intelligence Community.

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